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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91176065
Party	Defendant H. Co. Computer Products
Correspondence Address	RAYMOND R TABANDEH CHRISTIE PARKER & HALE LLP PO BOX 29001 GLENDALE, CA 91209-9001 UNITED STATES pto@cph.com, steven.lauridsen@cph.com, gary.nelson@cph.com
Submission	Motion for Sanctions
Filer's Name	Steven E. Lauridsen
Filer's e-mail	pto@cph.com
Signature	/Steven E. Lauridsen/
Date	08/27/2012
Attachments	motionforsanctions.PDF ( 29 pages )(656244 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Lenovo (Singapore) PTE Ltd.

Opposer,

v.

H. Co. Computer Products

Applicant.

Opposition No. 91176065

AND RELATED COUNTERCLAIM

**APPLICANT'S MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE  
DOCUMENTS OR RESPOND TO INTERROGATORIES IN VIOLATION OF THE  
BOARD'S SEPTEMBER 30, 2011 ORDER**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that, pursuant to Trademark Rule 2.120(g), Applicant and Petitioner H. Co. Computer Products (“HCCP”) hereby moves the Trademark Trial and Appeal Board for an Order sanctioning Opposer and Registrant Lenovo (Singapore) PTE Ltd. (“Lenovo”) for its failure to respond adequately to HCCP’s interrogatories and to produce documents in violation of the Board's September 30, 2011 order compelling discovery.

The grounds for this motion are that Lenovo has refused to provide responses and documents and has reasserted that the interrogatories were not timely served, notwithstanding the fact that the Board has deemed the interrogatories as having been timely served. It has been almost a year since the Board issued its order compelling discovery, yet Lenovo has not complied with that order. Lenovo's counsel also represented to the Board during a telephonic hearing that the parties were engaged in serious settlement negotiations. However, a year later, Lenovo has refused to negotiate in good faith, indicating that the misrepresentation was simply a delaying tactic. Sanctions are therefore warranted.

This motion is based on the Points and Authorities put forth below, as well as the complete records and files of this proceeding, the accompanying Declaration of Steven E. Lauridsen, and any other oral or documentary evidence that may be relevant.

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Lenovo has openly defied the Board's September 30, 2011 order compelling discovery, choosing instead to assert previously overruled objections rather than to serve meaningful responses or to produce documents. This bad faith conduct is compounded by the fact that Lenovo succeeded in convincing HCCP to stipulate to a suspension for a year based on Lenovo's apparent misrepresentation that it was engaged in serious settlement negotiations with HCCP, when in reality Lenovo failed to engage in settlement negotiations. The Board should not countenance such behavior, and sanctions are therefore warranted.

**II. PROCEDURAL POSTURE AND STATEMENT OF FACTS**

On July 1, 2010, HCCP propounded its first set of requests for production. [D.I.<sup>1</sup> 55 at Ex. A.<sup>2</sup>] On December 14, 2010, HCCP served its first set of interrogatories. [D.I. 55 at Ex. B.] Between the time when HCCP served its document requests and its interrogatories, Lenovo made a partial, though inadequate, document production. Lenovo also objected to Request for Production No. 1, which requested all documents used to respond to any of HCCP's interrogatories, on the ground that, as of the date of the responses, HCCP had not propounded interrogatories. [D.I. 55 at Ex. C.] HCCP's counsel therefore sent Lenovo a letter on January 10, 2011 setting forth the deficiencies in Lenovo's document production and requesting a conference of counsel to resolve the discovery dispute. [D.I. 55 at Ex. D.] In that letter, HCCP's counsel explained, *inter alia*, that because HCCP has recently served interrogatories, Lenovo was

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1. All references to "D.I." refer to the Docket Index number for this proceeding.

2. Unless otherwise specified, references to exhibits in connection with D.I. 55 refer to the Declaration of Steven E. Lauridsen filed on September 23, 2011 in support of Applicant's Motion to Compel, which appears under that Docket Index.

obligated under Rule 26(e) to supplement its response to Request for Production No. 1 and to produce documents used to respond to the interrogatories. [*Id.*]

Although Lenovo ultimately supplemented its document production, Lenovo also sent HCCP a February 14, 2011 letter claiming that it had never received HCCP's interrogatories. [D.I. 55 at Ex. E.] Although Lenovo's responses were due on January 18, 2011, rather than claim that Lenovo had waived its objections by failing to respond, HCCP instead sent on March 2, 2011 a courtesy copy of the interrogatories HCCP had originally served in December and requested that Lenovo respond within thirty days. [D.I. 55 at Ex. F.] On March 22, 2011, Lenovo sent a letter stating that it would not respond to the interrogatories because Lenovo considered them to be untimely served and because Lenovo contended that they exceeded the permissible number of interrogatories. [D.I. 55 at Ex. G.] On September 23, 2011, HCCP filed a motion to compel discovery seeking responses to its interrogatories and the production of all documents relied upon in responding to those interrogatories. [*See generally* D.I. 55.]

The Board, in its discretion, held a telephonic hearing on September 30, 2011 to resolve the issues presented in the motion, and the Board issued an order memorializing its rulings that same day. [D.I. 57 at pp. 1-2.] The Board made the following rulings:

1. HCCP's interrogatories were timely served.<sup>3</sup> [D.I. 57 at p. 4.]
2. HCCP was required to respond to Interrogatory Nos. 1-2, 4-47, 50-54, and 56-57.

[D.I. 57 at p. 6.]

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3. For the reasons set forth in its Motion to Compel, HCCP maintains that its interrogatories were timely served on December 14, 2010 and not on March 2, 2011 as the Board ruled. Nevertheless, because the Board held that the interrogatories were timely notwithstanding the date they were served, HCCP sees no reason to reargue this issue now.

3. Lenovo was required to produce responsive, non-privileged documents "requested to be identified in, or actually identified by Lenovo, in responding to" HCCP's Interrogatory Nos. 1-2, 4-47, 50-54, and 56-57. [D.I. 57 at p. 6.]

4. Lenovo was not required to respond to Interrogatory Nos. 3, 48, 49, and 55. [D.I. 57 at pp. 4-6.]

5. Proceedings were suspended to allow for settlement negotiations based on Lenovo's representation that the parties were engaged in serious settlement talks. [See D.I. 57 at p. 7.]

6. Lenovo must provide a privilege log for all documents for which it claims privilege. [D.I. 57 at p. 8.]

7. Lenovo would have thirty days from resumption to comply with the Board's order compelling discovery. [D.I. 57 at p. 7.]

The Board also explained that, "in the event Lenovo fails to provide H. Co. Computer with full and complete responses to the outstanding discovery, as required by the instant order, Lenovo will be barred from relying upon or later producing documents or facts at trial withheld from such discovery. *See* Fed. R. Civ. P. 37(c)(1)." [D.I. 57 at p. 8.]

After the Board suspended proceedings, the parties engaged in settlement discussions. HCCP last sent Lenovo a settlement counter-proposal on or about December 22, 2011. HCCP sent repeated reminders and inquiries regarding this proposal.<sup>4</sup> [Lauridsen Decl. ¶¶ 3-5 and Ex. C.] Lenovo's counsel assured HCCP's counsel that the settlement negotiations were continuing and requested that the parties stipulated to extend the suspension period. [Lauridsen Decl. Ex.

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4. Because HCCP does not reveal the contents of the parties' settlement negotiations, Rule 401 of the Federal Rules of Evidence is not implicated.

B.] Based on continued apparent misrepresentations from Lenovo that Lenovo intended to provide a serious settlement proposal soon, HCCP consented to extend the suspension period several times. [See D.I. 59-62.] Although HCCP repeatedly followed up with Lenovo regarding the status of settlement, Lenovo never provided a substantive response to HCCP's last counter-proposal, nor did Lenovo state that it was withdrawing from settlement negotiations.

Now, nearly a year after the Board entered its order, proceedings have resumed, and Lenovo has refused to comply with the Board's order compelling discovery. Instead, Lenovo served papers on HCCP wherein it repeated its already overruled argument that HCCP's interrogatories were untimely and provided a single sentence response to the 53 interrogatories to which the Board ordered it to respond: "Opposer directs Applicant to the corresponding Requests for Production and Documents produced therewith." [Lauridsen Decl. Ex. A.] In response to Request for Production No. 1 as to Interrogatory Nos. 3, 48-49, and 55, Lenovo simply states, "Please see the above Answers to Interrogatories." [Lauridsen Decl. Ex. A.] Lenovo does not even address documents with respect to the remaining interrogatories.

Lenovo's "responses" after a year of unnecessary delay smack of bad faith and completely disregard the Board's September 30, 2011 order. The Board should not countenance this kind of disrespectful and obstructionist behavior. And because Lenovo has prejudiced HCCP's ability to prepare for trial and to mount a defense, Lenovo should be sanctioned.

### **III. SANCTIONS ARE WARRANTED**

"If a party fails to comply with an order of the Trademark Trial and Appeal Board relating to discovery . . . the Board may make any appropriate order, including any of the orders provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure . . ." 37 C.F.R. § 1.120(g)(1).



The Federal Rules of Civil Procedure provide for the following sanctions after a party fails to comply with a discovery order:

- (i) directing that the matters embraced in the order or other designated facts be taken as established for purposes of the action, as the prevailing party claims;
- (ii) prohibiting the disobedient party from supporting or opposing designated claims or defenses, or from introducing designated matters in evidence;
- (iii) striking pleadings in whole or in part;
- (iv) staying further proceedings until the order is obeyed;
- (v) dismissing the action or proceeding in whole or in part;
- (vi) rendering a default judgment against the disobedient party; or
- (vii) treating as contempt of court the failure to obey any order except an order to submit to a physical or mental examination.

Fed. R. Civ. P. 37(b)(2).

It is undisputed that Lenovo did not comply with the Board's order to respond to discovery and produce documents. Although a party has the option to produce business records in response to interrogatories, it may only do so under specific circumstances not met here. Rule 33 of the Federal Rules of Civil Procedure explains:

If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records (including electronically stored information), and if the burden of deriving or ascertaining the answer will be substantially the same for either party, the responding party may answer by:

- (1) specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them as readily as the responding party could; and
- (2) giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

Fed. R. Civ. P. 33(d).

First, many of the interrogatories at issue are contention interrogatories, inquiring about discrete topics ranging from the *DuPont* factors to specific facts that Lenovo alleges support its claims and defenses. [See, e.g., Interrogatory Nos. 5, 6, 10, 13, 17, 19, and 26 (D.I. 55 at Ex. B).] Unlike interrogatories seeking financial figures, the responses to these interrogatories do not lend themselves to the compilation and abstraction of information.<sup>5</sup> Lenovo's supposed reliance on Rule 33(d) is therefore improper.

However, even if Lenovo's reliance on Rule 33(d) were proper, Lenovo still has not complied with the rules because it has not specifically identified the records responsive to each interrogatory. See Fed. R. Civ. P. 33(d)(1) (the responding party may answer by "specifying the records that must be reviewed, in sufficient detail to enable the interrogating party to locate and identify them"); see also Notes of Advisory Committee on Rules – 1980 Amendment ("The final sentence is added to make it clear that a responding party has the duty to specify, by category and location, the records from which answers to interrogatories can be derived."). Lenovo's

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5. It should be noted, however, that even in such situations, the responding party must provide the summary or abstract if it already exists. See Notes of Advisory Committee on Rule – 1980 Amendment ("If the information sought exists in the form of compilations, abstracts or summaries then available to the responding party, those should be made available to the interrogating party.").

blanket statement that responses to all of the interrogatories may be found somewhere in its earlier document production – which was made prior to HCCP filing its motion to compel – violates the Federal Rules and is in bad faith.

Lenovo's response to HCCP's Request for Production No. 1 is similarly made in bad faith as it simply states, "Please see the above Answers to Interrogatories." These responses are tantamount to Lenovo providing no responses at all, and sanctions are therefore warranted.

**A. At The Least, Preclusion Sanctions Are Warranted**

In its September 30, 2011 order, the Board explained that, "in the event Lenovo fails to provide H. Co. Computer with full and complete responses to the outstanding discovery, as required by the instant order, Lenovo will be barred from relying upon or later producing documents or facts at trial withheld from such discovery." [D.I. 57 at p. 8 (citing Fed. R. Civ. P. 37(c)(1)).] This sanction is consistent with federal law concerning contention interrogatories and is appropriate here. *See Wechsler v. Hunt Health Sys.*, 1999 U.S. Dist. LEXIS 13216 at \*5 (S.D.N.Y. 1997) (responses to contention interrogatories are treated as "judicial admissions" that estop the responding party from asserting positions omitted or different from those responses); *CPC International Inc. v. Archer Daniels Midland Company*, 831 F. Supp. 1091, 1102-1103 (D. Del. 1993) (holding that defendant waived the right to rely on a particular defense to a patent infringement claim by failing to identify them in response to plaintiff's contention interrogatory, failing to supplement its interrogatory response, and failing include them in the draft pretrial order); *see also Nike Inc. v. Wolverine World Wide, Inc.*, 43 F. 3d 644, 649 (Fed Cir. 1994) (affirming district court's order barring plaintiff's claim under the doctrine of equivalents where the plaintiff had not disclosed the factual basis for the claim during discovery).

Lenovo had the duty to respond to contention interrogatories truthfully and completely, in a clear and precise manner. *Weiss v. Chrysler Motors Corp.*, 515 F.2d 449, 456 (2d Cir. 1975). And, Lenovo must be bound by those responses. *See Emilia Guadagno v. Leviathan Assoc., National Life of Vermont*, 950 F. Supp. 1258, 1261 (S.D.N.Y. 1997) (a contention interrogatory response is a judicial admission binding on the party making them that may not be controverted at trial).

Since Lenovo failed to respond to HCCP's contention interrogatories, it should be barred from advancing any facts or theories at trial that it should have addressed in its interrogatory responses, as the Board warned would happen. *See* Fed. R. Civ. P. 37(c)(1) ("If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless"); *see also* D.I. 57.

**B. The Board Should Enter Judgment In HCCP's Favor**

"The law is clear that if a party fails to comply with an order of the Board relating to discovery, including an order compelling discovery, the Board may order appropriate sanctions as defined in Trademark Rule 2.120(g)(1) and Fed. R. Civ. P. 37(b)(2), including entry of judgment." *See MHW Ltd. V. Simex Aussenhandelsgesellschaft Savelsberg KG*, 59 U.S.P.Q. 2d 1477 (T.T.A.B. 2000); *Baron Philippe de Rothschild S.A. v Stylrite Optical Mfg. Co.*, 55 U.S.P.Q. 2d 1848, 1854 (T.T.A.B. 2000) ("Default judgment is a harsh remedy, but it is justified where no less drastic remedy would be effective, and there is a strong showing of willful evasion."). Although this appears to be the first order Lenovo has violated in this proceeding, its conduct in failing to comply with this order is sufficiently egregious that it warrants dismissal.

**1. Lesser Sanctions Will Not Relieve HCCP's Prejudice**

Lesser sanctions will not relieve HCCP of the prejudice caused by Lenovo's willful failure to comply with its discovery obligations. It has been almost a year since the Board ordered Lenovo to respond to HCCP's interrogatories and to produce documents, yet Lenovo has refused to do so. There is little point in allowing Lenovo more time to do so now.

Moreover, an order of sanctions simply preventing Lenovo from introducing documents that it has not produced will not sufficiently punish Lenovo. Lenovo produced some documents earlier in this proceeding, before the Board ordered it to comply further with its discovery obligations. Presumably, Lenovo considers these documents favorable to its case. HCCP's interrogatories and the corresponding request for production were targeted to putting Lenovo to its proof and to rooting out evidence that is not favorable to Lenovo's case. Excusing Lenovo from producing this evidence and preventing Lenovo from relying on it only hurts HCCP. Harsher sanctions are therefore necessary to relieve HCCP of the prejudice Lenovo has caused.

Finally, because of Lenovo's apparent misrepresentations regarding the status of the parties' settlement negotiations, HCCP has to unexpectedly gear up for trial after a yearlong hiatus and without having received the discovery the Board ordered Lenovo to provide. HCCP has been prejudiced for this additional reason.

**2. Lenovo's Conduct Has Been Willful And Dilatory**

"Default judgment is a harsh remedy, but it is justified where no less drastic remedy would be effective, and there is a strong showing of willful evasion." *Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 U.S.P.Q. 2d 1848, 1854 (T.T.A.B. 2000) (citing *Unicut Corp. v. Unicut, Inc.*, 222 U.S.P.Q. 341, 344 (T.T.A.B. 1984)) (entering judgment against one whose pattern of dilatory conduct indicated willful disregard of Board order). "While

dismissal or default as a sanction is harsh, it is proper where there is a strong showing of willful evasion of discovery." J. McCarthy, *McCarthy on Trademarks and Unfair Competition*, § 20.113 (4th ed. 2012).

Lenovo's willfulness in evading its discovery obligations and in defying the Board's order is demonstrated by the fact that its non-responsive "Answers and Objections" merely repeat arguments that the Board already considered and rejected. Moreover, even though Lenovo represented to the Board during the telephonic hearing on HCCP's motion to compel that the parties were engaged in serious settlement talks, Lenovo has not continued to negotiate in any meaningful way or provided a counteroffer despite numerous requests for HCCP over the course of a whole year. [See Lauridsen Decl. Exs. B-C.] To delay these proceedings for an entire year for the alleged purpose of negotiating a settlement, while at the same time not even making an offer smacks of bad faith. This bad faith is amplified by the fact that, when proceedings resumed, Lenovo refused to comply with its Board-ordered discovery obligations, despite having had a year in which to do so. The Board should not countenance such behavior and should award terminating sanctions against Lenovo.

**IV. SUSPENSION OF FURTHER PROCEEDINGS NOT GERMANE TO THIS MOTION; CONTINUANCE OF ALL DATES**

Lenovo's failure to comply with the Board's order compelling discovery has prejudiced HCCP's ability to prepare for trial. HCCP therefore requests that the Board suspend proceedings pending disposition of this motion. HCCP also requests that the Board continue all deadlines by at least thirty days after ruling on this motion so as to allow HCCP adequate time to prepare for trial in light of the Board's ruling.


**V. CONCLUSION**

After delaying proceedings for a year based on apparent misrepresentations that it would engage in serious settlement negotiations, Lenovo has willfully defied the Board's order compelling discovery, choosing to instead raise objections previously overruled by the Board. This conduct is unacceptable, and sanctions are therefore warranted.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

Date 8/27/2012

By   
Gary J. Nelson  
Steven E. Lauridsen  
Attorneys for Applicant  
P.O. Box 7068  
Pasadena, California 91109-7068  
626/795-9900

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TRADEMARK  
Docket No. 110.2\*2/H644  
Opposition No. 91176065

**CERTIFICATE OF TRANSMISSION AND SERVICE**

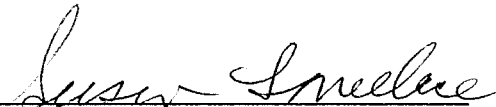
I certify that on August 27, 2012, the foregoing **APPLICANT'S MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE DOCUMENTS OR RESPOND TO INTERROGATORIES IN VIOLATION OF THE BOARD'S SEPTEMBER 30, 2011 ORDER** is being electronically filed with:

Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

It is further certified that on August 27, 2012, the foregoing **APPLICANT'S MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE DOCUMENTS OR RESPOND TO INTERROGATORIES IN VIOLATION OF THE BOARD'S SEPTEMBER 30, 2011 ORDER** is being served by mailing a copy thereof by first-class mail addressed to:

Stanley D. Ference III  
FERENCE & ASSOCIATES  
409 Broad Street  
Pittsburgh, PA 15143

Attorneys for Opposer

By:   
Susan Lovelace  
CHRISTIE, PARKER & HALE, LLP  
P.O. Box 29001  
Glendale, CA 91209-9001  
pto@cph.com



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

Lenovo (Singapore) PTE Ltd.

Opposer,

v.

H. Co. Computer Products

Applicant.

Opposition No. 91176065

AND RELATED COUNTERCLAIM

**DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF APPLICANT'S  
MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE DOCUMENTS OR  
RESPOND TO INTERROGATORIES IN VIOLATION OF THE BOARD'S  
SEPTEMBER 30, 2011 ORDER**

I, Steven E. Lauridsen, state as follows:

1. I am an attorney at Christie, Parker & Hale, LLP, attorneys of record for Applicant H. Co. Computer Products ("HCCP"). I make this declaration of my personal knowledge and, if called as a witness, could testify competently regarding the following facts.

2. Attached as Exhibit A is a document titled "Opposer's Answers and Objections in Compliance with the September 30, 2011 Order of the Board," which I received by mail from counsel for Opposer Lenovo (Singapore) PTE Ltd. ("Lenovo").

3. After the Board first suspended proceedings, the parties engaged in settlement discussions. HCCP's counsel last sent Lenovo's counsel a counter-proposal on or about December 22, 2011.

4. Attached as Exhibit B is a February 23, 2012 email from Lenovo's counsel regarding purported progress on the December 22, 2011 settlement counter-proposal. Based on the representations contained in this email, HCCP's counsel agreed to the February 24, 2012 filing of an extension of the suspension period, which appears as Docket Index 61. HCCP's counsel never received any further substantive settlement communications from Lenovo after this email, and as a result, no subsequent suspension requests were filed with the Board.

5. Attached as Exhibit C is an email string containing numerous reminders regarding settlement from HCCP's counsel to Lenovo's counsel, dating from January 9, 2012 to March 27, 2012.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on August 27, 2012 in

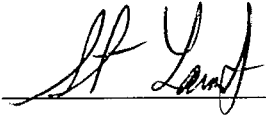
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Opposition No. 91176065

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Glendale, California.



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Steven E. Lauridsen

SEL PAS1190986.1-\* -08/27/12 3:50 PM

# EXHIBIT A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 78/636,480

For the mark THINKCP

Published in the Official Gazette on November 7, 2006

Lenovo (Singapore) PTE Ltd.	)	
	)	
Opposer ,	)	Opposition No. 91176065
	)	
vs.	)	
	)	
H. Co. Computer Products	)	
	)	
Applicant.	)	
	)	
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H. Co. Computer Products	)	
	)	
Counterclaimant,	)	
	)	
vs.	)	
	)	
Lenovo (Singapore) PTE Ltd.	)	
	)	
Respondent.	)	
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**OPPOSER'S ANSWERS AND OBJECTIONS IN COMPLIANCE WITH THE  
SEPTEMBER 30, 2011 ORDER OF THE BOARD**

**Answers to Interrogatory Nos. 1-2, 4-47, 50-54, 56-57:**

Opposer objects to the propounding of these Interrogatories as inconsistent with the prior motions and Board Orders resulting from the party's consented motions. Those extensions were allowed for the express purpose of answering already propounded discovery but did not provide extensions for propounding new discovery. *See, e.g.,* Dkt. Nos. 45, 47, 49, 52, ("As a condition of this extension, the parties agree that they will use

this period to complete all outstanding discovery and that they will not serve additional discovery requests.”)

In accordance with the September 30, 2011 Order of the Board, the Applicant’s Interrogatories were served on March 2, 2011. Examining the string of extensions and Board Orders reveals that Dkt No. 45 was filed when discovery was to close on February 13, 2011 and that extension and all the extensions after contained the express language agreed upon by the parties: “[a]s a condition of this extension, the parties agree that they will use this period to complete all outstanding discovery and that they will not serve additional discovery requests.” Dkt. Nos. 45, 47, 49, 52.

Since these Interrogatories were served after the February 13, 2011 close of discovery and after Dkt. No. 45 extended the discovery period, they constitute new discovery and they violate the multiple orders extending discovery before. However, and without waiving this objection, in accordance with the Federal Rules of Civil Procedure, Opposer directs Applicant to the corresponding Requests for Production and Documents produced therewith.

**Response to Document Request No. 1 as to Interrogatory No. 3, 48-49, and 55.**

Please see the above Answers to Interrogatories.

Signed as to the legal objections:

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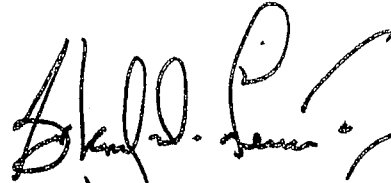
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Dated: \_\_\_\_\_

8/3/2012



Stanley D. Ference III  
Registration No. 33,879

Brian Samuel Malkin  
Registration No. 48,329

FERENCE & ASSOCIATES LLC  
409 Broad Street  
Pittsburgh, PA 15143  
(412) 741-8400 - Phone  
(412) 741-9292 - Facsimile

Attorneys for Opposer  
Lenovo (Singapore) Pte. Ltd.

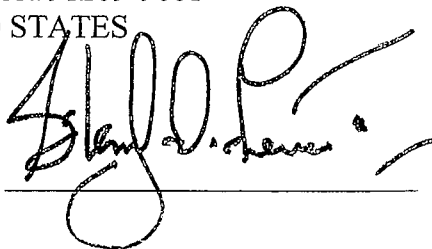
CERTIFICATE OF SERVICE

I certify that the foregoing is being served by U. S. First-Class Mail, postage pre-paid, to:

RAYMOND R TABANDEH  
CHRISTIE PARKER & HALE LLP  
PO BOX 29001  
GLENDALE, CA 91209-9001  
UNITED STATES

Dated: \_\_\_\_\_

8/3/2012

  
\_\_\_\_\_



## EXHIBIT B

## Steven E. Lauridsen

---

**From:** Brian Samuel Malkin <bmalkin@ferencelaw.com>  
**Sent:** Thursday, February 23, 2012 6:42 AM  
**To:** Steven E. Lauridsen; Gary Nelson  
**Cc:** Suzanne Horcick  
**Subject:** THINKCP settlement negotiations (740.043)

Gentlemen:

I wanted to report to you that our settlement negotiations are continuing on THINKCP. The settlement offer is making its way up the chain of command at Lenovo and we are awaiting further direction. As this juncture, it would be appropriate to report to the Board that we are continuing to make progress in our settlement negotiations and that a further suspension is warranted. If you are in agreement, I would suggest that we simply suspend to correspond with the current suspensions on THINK NETWORKING PRODUCTS and THINK MEMORY PRODUCTS (which is July 4, 2012). My notes indicate that we had at one point agreed to keep the cases and timing moving in parallel but the last consent order moved away from that plan.

Your thoughts are appreciated as always.

Best regards,

Brian.

Brian Samuel Malkin  
Attorney at Law  
Ference & Associates, LLC  
[www.ferencelaw.com](http://www.ferencelaw.com)

## EXHIBIT C

## Steven E. Lauridsen

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**From:** Gary Nelson  
**Sent:** Tuesday, March 27, 2012 1:38 PM  
**To:** 'Brian Samuel Malkin'; 'Stanley Ference'  
**Cc:** Steven E. Lauridsen  
**Subject:** FIFTH REMINDER: Lenovo v. HCCP - Settlement

FIFTH REMINDER.

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**From:** Gary Nelson  
**Sent:** Monday, February 13, 2012 10:52 AM  
**To:** 'Brian Samuel Malkin'; 'Stanley Ference'  
**Cc:** Steven E. Lauridsen  
**Subject:** FOURTH REMINDER: Lenovo v. HCCP - Settlement

FOURTH REMINDER.

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**From:** Gary Nelson  
**Sent:** Monday, February 06, 2012 11:11 AM  
**To:** 'Brian Samuel Malkin'; Stanley Ference  
**Cc:** Steven E. Lauridsen  
**Subject:** THIRD REMINDER: Lenovo v. HCCP - Settlement

THIRD REMINDER.

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**From:** Gary Nelson  
**Sent:** Thursday, January 26, 2012 3:23 PM  
**To:** 'Brian Samuel Malkin'; Stanley Ference  
**Subject:** SECOND REMINDER: Lenovo v. HCCP - Settlement

SECOND REMINDER.

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**From:** Gary Nelson  
**Sent:** Thursday, January 19, 2012 12:46 PM  
**To:** 'Brian Samuel Malkin'; Stanley Ference  
**Cc:** Steven E. Lauridsen  
**Subject:** FW: Lenovo v. HCCP - Settlement

**REMINDER. We look forward to receiving your response.**

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**From:** Brian Samuel Malkin [<mailto:bmalkin@ferencelaw.com>]  
**Sent:** Tuesday, January 10, 2012 6:25 AM  
**To:** Steven E. Lauridsen; Stanley Ference  
**Cc:** Gary Nelson; Roxanne Gaines  
**Subject:** RE: Lenovo v. HCCP - Settlement

Hi Steven,  
We are waiting to hear back.  
Thanks.  
Brian.

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**From:** Steven E. Lauridsen [<mailto:Steven.Lauridsen@cph.com>]

**Sent:** Monday, January 09, 2012 7:15 PM

**To:** Brian Samuel Malkin; Stanley Ference

**Cc:** Gary Nelson; Roxanne Gaines

**Subject:** Lenovo v. HCCP - Settlement

Brian,

I am writing to see if Lenovo has had an opportunity to consider HCCP's counter-proposal.

Best regards,

Steven

TRADEMARK  
Docket No. 110.2\*2/H644  
Opposition No. 91176065

**CERTIFICATE OF TRANSMISSION AND SERVICE**

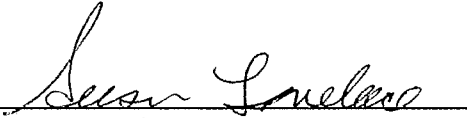
I certify that on August 27, 2012, the foregoing **DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF APPLICANT'S MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE DOCUMENTS OR RESPOND TO INTERROGATORIES IN VIOLATION OF THE BOARD'S SEPTEMBER 30, 2011 ORDER** is being electronically filed with:

Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

It is further certified that on August 27, 2012, the foregoing **DECLARATION OF STEVEN E. LAURIDSEN IN SUPPORT OF APPLICANT'S MOTION FOR SANCTIONS FOR FAILURE TO PRODUCE DOCUMENTS OR RESPOND TO INTERROGATORIES IN VIOLATION OF THE BOARD'S SEPTEMBER 30, 2011** is being served by mailing a copy thereof by first-class mail addressed to:

Stanley D. Ference III  
FERENCE & ASSOCIATES  
409 Broad Street  
Pittsburgh, PA 15143

Attorneys for Opposer

By:   
Susan Lovelace  
CHRISTIE, PARKER & HALE, LLP  
P.O. Box 29001  
Glendale, CA 91209-9001  
pto@cph.com